

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEY SAFETY SYSTEMS, INC.,
a Delaware Corporation,

Case No. 2:08-cv-10558

Plaintiff,

Hon. George Caram Steeh
Magistrate Judge: Mona K. Majzoub

v.

INVISTA, S.À.R.L.,
a Luxembourg Privated Limited Company,

Defendant.

J. Kenneth Wainwright, Jr., (P25633)
Barry B. Sutton (P48761)
Thomas W. Werner (P67492)
HARVEY KRUSE, P.C.
Attorneys for Plaintiff
1050 Wilshire Drive
Troy, MI 48084
248-649-7800
248-649-2316 (fax)

Richard C. Sanders (P25210)
Heather R. Bozimowski (P68824)
MILLER, CANFIELD, PADDOCK AND
STONE, P.L.C.
Attorneys for Defendant
150 W. Jefferson Avenue, Suite 2500
Detroit, MI 48226
313-963-6420
313-496-8454

ORDER GRANTING DEFENDANT'S MOTION FOR RELIEF (#23)

This matter having come before the Court upon Defendant INVISTA S.À.R.L.'s Motion for Relief from this Court's May 6, 2008 Order seeking to increase the price it charges Plaintiff Key Safety Systems for airbag yarns by \$0.26 per pound; the Court having reviewed its file and being fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY ORDERED that INVISTA's Motion for Relief from this Court's May 6, 2008 Order is granted and INVISTA is permitted to increase the price it charges Key Safety Systems for airbag yarn by \$0.26 per pound.

IT IS FURTHER ORDERED THAT this ORDER shall be effective as of October 1, 2008;

IT IS FURTHER ORDERED THAT INVISTA shall continue to supply Key Safety with the airbag yarn at issue, and Key shall pay INVISTA's \$0.26 price increase;

IT IS FURTHER ORDERED THAT INVISTA shall treat Key Safety Systems as a "most favored customer." As such, INVISTA shall provide the Court for *in camera* review redacted invoices from the same customers for the same products that INVISTA previously submitted in connection with the hearing on INVISTA's request for price increase. INVISTA shall submit these invoices to the Court at the end of each month for determination and confirmation that INVISTA customers are not paying a lower price than Key Safety for these yarns purchased by Key Safety. INVISTA shall copy Key Safety's counsel on the transmittal letter to the Court, but Key Safety shall not receive copies of the submitted invoices.

IT IS FURTHER ORDERED THAT if Key Safety fails to pay INVISTA's invoices reflecting the increased price on time and in full, the Court will entertain a motion to dissolve the preliminary injunction entered by this Court on September 16, 2008 .

Pursuant to MCLA §440.1207, Key's payment of the increased prices shall be deemed to have been made "under protest" and "without prejudice" to Key's ability to seek recovery of those increased payments. Further, the ORDER is made without prejudice to INVISTA's ability to seek recovery of the increased price of \$0.26 per pound on invoices dated on or after August

1, 2008, but before October 1, 2008.

IT IS SO ORDERED.

s/George Caram Steeh
Hon. George Caram Steeh
U.S. District Judge

Dated: November 10, 2008